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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,403	12/17/2004	Frederic Milliot	Q85026	9974
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SUITE 800				
WASHINGTON, DC 20037				
EXAMINER				
VU, MICHAEL T				
ART UNIT		PAPER NUMBER		
2617				
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03/02/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/518,403

Applicant(s)

MILLIOT ET AL.

Examiner

MICHAEL T. VU

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attachment Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617

ADVISORY ACTION

On page 9 of Applicant's remarks, Applicant argues that Barrett and Byrnes do not teach or suggest "exchanging service configuration data between the terminal and the device by means of selected AT commands that the AT command management means of said device are able to interpret".

In response, Barrett indeed clearly discloses a wireless telecommunications system (40), a subscriber unit (44) transmits a request for a data connection (10) to cellular infrastructure equipment (46), wherein the data connection is between the requesting subscriber unit (42) and a data receiver (80,82) coupled to the cellular infrastructure equipment (46) via a public switched telephone network (68). In response to the transmitted request (10), data connection configuration parameters (78) stored in the cellular infrastructure (46) are selected (90), and the data connection is configured (208) according to the selected data configuration parameters. Data connection configuration parameters may include AT commands from the AT command set (See Abstract).

Moreover, Barrett discloses the subscriber unit and the interworking unit exchange commands and data to setup a data communication protocol stack 16, such as an IS-99 stack in a CDMA system. After the data protocol stack is setup, the subscriber unit and the interworking unit exchange AT commands and responses 18 in order to configure the modem according to the user's need. As shown in FIG. 1, several commands and responses 18 may be necessary to properly configure the modem and the data connection. Such AT commands may include commands to instruct the modem to communicate at a specified baud rate, to change the carrier detect timeout, or to perform any other similar command from the extensive list of AT commands (Col. 1, lines 51-63).

More particularly, Barrett explicitly discloses the interworking unit exchange commands and data to setup a data communication protocol, in which it reads on the command management that would be able to interpreted (Col. 1, lines 51-53), and See Claim 4 reads on it.

Addition, the process determines whether or not prestored data connection configuration parameters, or modem configuration parameters, are available within the cellular infrastructure, as illustrated at block 204. Such data connection configuration parameters may include commands from the AT Command Set, which is also known as the Hayes Standard AT Command Set. The AT command set was developed in 1981 by Hayes Microcomputer Products, Inc. in Norcross, Ga. This AT command set has also been extended to include additional commands as described in standard IS-99. The purpose of these commands is to set specific control variables in the modem, such as modem 60 in FIG. 2. Thus, AT commands are commands that the modem can understand and respond to. AT commands are represented by data sent to the modem that the modem itself responds to; the modem does not transmit data that represents these commands (Col. 4, lines 14-31).

Furthermore, a user may enter data connection configuration parameters into computer 48 coupled to subscriber unit 44, and such commands will be transmitted via air interface (Col. 4, lines 61-64).

From the above, the examiner believes that the rejection of claims 1-4, 18-24, and 38-40 are proper and are therefore maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael T. Vu whose telephone number (571) 272-8131. The examiner can normally be reached on 8:30 AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Charles N. Appiah can be reached on (571) 272-7904. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 272-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed

to the receptionist whose telephone number is
(571) 272-9000.

Michael Vu
Examiner
AU-2617